

1 AN ACT concerning vehicles.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The State Finance Act is amended by adding
5 Section 5.595 as follows:

6 (30 ILCS 105/5.595)

7 Sec. 5.595. The Secretary of State Police DUI Fund.

8 Section 10. The Illinois Vehicle Code is amended by
9 changing Section 11-501 as follows:

10 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

11 Sec. 11-501. Driving while under the influence of
12 alcohol, other drug or drugs, intoxicating compound or
13 compounds or any combination thereof.

14 (a) A person shall not drive or be in actual physical
15 control of any vehicle within this State while:

16 (1) the alcohol concentration in the person's blood
17 or breath is 0.08 or more based on the definition of
18 blood and breath units in Section 11-501.2;

19 (2) under the influence of alcohol;

20 (3) under the influence of any intoxicating
21 compound or combination of intoxicating compounds to a
22 degree that renders the person incapable of driving
23 safely;

24 (4) under the influence of any other drug or
25 combination of drugs to a degree that renders the person
26 incapable of safely driving;

27 (5) under the combined influence of alcohol, other
28 drug or drugs, or intoxicating compound or compounds to a
29 degree that renders the person incapable of safely

1 driving; or

2 (6) there is any amount of a drug, substance, or
3 compound in the person's breath, blood, or urine
4 resulting from the unlawful use or consumption of
5 cannabis listed in the Cannabis Control Act, a controlled
6 substance listed in the Illinois Controlled Substances
7 Act, or an intoxicating compound listed in the Use of
8 Intoxicating Compounds Act.

9 (b) The fact that any person charged with violating this
10 Section is or has been legally entitled to use alcohol, other
11 drug or drugs, or intoxicating compound or compounds, or any
12 combination thereof, shall not constitute a defense against
13 any charge of violating this Section.

14 (c) Except as provided under paragraphs (c-3), (c-4),
15 and (d) of this Section, every person convicted of violating
16 this Section or a similar provision of a local ordinance,
17 shall be guilty of a Class A misdemeanor and, in addition to
18 any other criminal or administrative action, for any second
19 conviction of violating this Section or a similar provision
20 of a law of another state or local ordinance committed within
21 5 years of a previous violation of this Section or a similar
22 provision of a local ordinance shall be mandatorily sentenced
23 to a minimum of 5 days of imprisonment or assigned to a
24 minimum of 30 days of community service as may be determined
25 by the court. Every person convicted of violating this
26 Section or a similar provision of a local ordinance shall be
27 subject to an additional mandatory minimum fine of \$500 and
28 an additional mandatory 5 days of community service in a
29 program benefiting children if the person committed a
30 violation of paragraph (a) or a similar provision of a local
31 ordinance while transporting a person under age 16. Every
32 person convicted a second time for violating this Section or
33 a similar provision of a local ordinance within 5 years of a
34 previous violation of this Section or a similar provision of

1 a law of another state or local ordinance shall be subject to
2 an additional mandatory minimum fine of \$500 and an
3 additional 10 days of mandatory community service in a
4 program benefiting children if the current offense was
5 committed while transporting a person under age 16. The
6 imprisonment or assignment under this subsection shall not be
7 subject to suspension nor shall the person be eligible for
8 probation in order to reduce the sentence or assignment.

9 (c-1) (1) A person who violates this Section during a
10 period in which his or her driving privileges are revoked
11 or suspended, where the revocation or suspension was for
12 a violation of this Section, Section 11-501.1, paragraph
13 (b) of Section 11-401, or Section 9-3 of the Criminal
14 Code of 1961 is guilty of a Class 4 felony.

15 (2) A person who violates this Section a third time
16 during a period in which his or her driving privileges
17 are revoked or suspended where the revocation or
18 suspension was for a violation of this Section, Section
19 11-501.1, paragraph (b) of Section 11-401, or Section 9-3
20 of the Criminal Code of 1961 is guilty of a Class 3
21 felony.

22 (3) A person who violates this Section a fourth or
23 subsequent time during a period in which his or her
24 driving privileges are revoked or suspended where the
25 revocation or suspension was for a violation of this
26 Section, Section 11-501.1, paragraph (b) of Section
27 11-401, or Section 9-3 of the Criminal Code of 1961 is
28 guilty of a Class 2 felony.

29 (c-2) (Blank).

30 (c-3) Every person convicted of violating this Section
31 or a similar provision of a local ordinance who had a child
32 under age 16 in the vehicle at the time of the offense shall
33 have his or her punishment under this Act enhanced by 2 days
34 of imprisonment for a first offense, 10 days of imprisonment

1 for a second offense, 30 days of imprisonment for a third
2 offense, and 90 days of imprisonment for a fourth or
3 subsequent offense, in addition to the fine and community
4 service required under subsection (c) and the possible
5 imprisonment required under subsection (d). The imprisonment
6 or assignment under this subsection shall not be subject to
7 suspension nor shall the person be eligible for probation in
8 order to reduce the sentence or assignment.

9 (c-4) When a person is convicted of violating Section
10 11-501 of this Code or a similar provision of a local
11 ordinance, the following penalties apply when his or her
12 blood, breath, or urine was .16 or more based on the
13 definition of blood, breath, or urine units in Section
14 11-501.2 or when that person is convicted of violating this
15 Section while transporting a child under the age of 16:

16 (1) A person who is convicted of violating
17 subsection (a) of Section 11-501 of this Code a first
18 time, in addition to any other penalty that may be
19 imposed under subsection (c), is subject to a mandatory
20 minimum of 100 hours of community service and a minimum
21 fine of \$500.

22 (2) A person who is convicted of violating
23 subsection (a) of Section 11-501 of this Code a second
24 time within 10 years, in addition to any other penalty
25 that may be imposed under subsection (c), is subject to a
26 mandatory minimum of 2 days of imprisonment and a minimum
27 fine of \$1,250.

28 (3) A person who is convicted of violating
29 subsection (a) of Section 11-501 of this Code a third
30 time within 20 years is guilty of a Class 4 felony and,
31 in addition to any other penalty that may be imposed
32 under subsection (c), is subject to a mandatory minimum
33 of 90 days of imprisonment and a minimum fine of \$2,500.

34 (4) A person who is convicted of violating this

1 subsection (c-4) a fourth or subsequent time is guilty of
2 a Class 2 felony and, in addition to any other penalty
3 that may be imposed under subsection (c), is not eligible
4 for a sentence of probation or conditional discharge and
5 is subject to a minimum fine of \$2,500.

6 (d) (1) Every person convicted of committing a violation
7 of this Section shall be guilty of aggravated driving
8 under the influence of alcohol, other drug or drugs, or
9 intoxicating compound or compounds, or any combination
10 thereof if:

11 (A) the person committed a violation of this
12 Section, or a similar provision of a law of another
13 state or a local ordinance when the cause of action
14 is the same as or substantially similar to this
15 Section, for the third or subsequent time;

16 (B) the person committed a violation of
17 paragraph (a) while driving a school bus with
18 children on board;

19 (C) the person in committing a violation of
20 paragraph (a) was involved in a motor vehicle
21 accident that resulted in great bodily harm or
22 permanent disability or disfigurement to another,
23 when the violation was a proximate cause of the
24 injuries;

25 (D) the person committed a violation of
26 paragraph (a) for a second time and has been
27 previously convicted of violating Section 9-3 of the
28 Criminal Code of 1961 relating to reckless homicide
29 in which the person was determined to have been
30 under the influence of alcohol, other drug or drugs,
31 or intoxicating compound or compounds as an element
32 of the offense or the person has previously been
33 convicted under subparagraph (C) of this paragraph
34 (1); or

1 (E) the person, in committing a violation of
2 paragraph (a) while driving at any speed in a school
3 speed zone at a time when a speed limit of 20 miles
4 per hour was in effect under subsection (a) of
5 Section 11-605 of this Code, was involved in a motor
6 vehicle accident that resulted in bodily harm, other
7 than great bodily harm or permanent disability or
8 disfigurement, to another person, when the violation
9 of paragraph (a) was a proximate cause of the bodily
10 harm.

11 (2) Aggravated driving under the influence of
12 alcohol, other drug or drugs, or intoxicating compound or
13 compounds, or any combination thereof is a Class 4
14 felony. For a violation of subparagraph (C) of paragraph
15 (1) of this subsection (d), the defendant, if sentenced
16 to a term of imprisonment, shall be sentenced to not less
17 than one year nor more than 12 years. For any
18 prosecution under this subsection (d), a certified copy
19 of the driving abstract of the defendant shall be
20 admitted as proof of any prior conviction.

21 (e) After a finding of guilt and prior to any final
22 sentencing, or an order for supervision, for an offense based
23 upon an arrest for a violation of this Section or a similar
24 provision of a local ordinance, individuals shall be required
25 to undergo a professional evaluation to determine if an
26 alcohol, drug, or intoxicating compound abuse problem exists
27 and the extent of the problem, and undergo the imposition of
28 treatment as appropriate. Programs conducting these
29 evaluations shall be licensed by the Department of Human
30 Services. The cost of any professional evaluation shall be
31 paid for by the individual required to undergo the
32 professional evaluation.

33 (f) Every person found guilty of violating this Section,
34 whose operation of a motor vehicle while in violation of this

1 Section proximately caused any incident resulting in an
2 appropriate emergency response, shall be liable for the
3 expense of an emergency response as provided under Section
4 5-5-3 of the Unified Code of Corrections.

5 (g) The Secretary of State shall revoke the driving
6 privileges of any person convicted under this Section or a
7 similar provision of a local ordinance.

8 (h) Every person sentenced under paragraph (2) or (3) of
9 subsection (c-1) of this Section or subsection (d) of this
10 Section and who receives a term of probation or conditional
11 discharge shall be required to serve a minimum term of either
12 60 days community service or 10 days of imprisonment as a
13 condition of the probation or conditional discharge. This
14 mandatory minimum term of imprisonment or assignment of
15 community service shall not be suspended and shall not be
16 subject to reduction by the court.

17 (i) The Secretary of State shall require the use of
18 ignition interlock devices on all vehicles owned by an
19 individual who has been convicted of a second or subsequent
20 offense of this Section or a similar provision of a local
21 ordinance. The Secretary shall establish by rule and
22 regulation the procedures for certification and use of the
23 interlock system.

24 (j) In addition to any other penalties and liabilities,
25 a person who is found guilty of or pleads guilty to violating
26 this Section, including any person placed on court
27 supervision for violating this Section, shall be fined \$100,
28 payable to the circuit clerk, who shall distribute the money
29 to the law enforcement agency that made the arrest. If the
30 person has been previously convicted of violating this
31 Section or a similar provision of a local ordinance, the fine
32 shall be \$200. In the event that more than one agency is
33 responsible for the arrest, the \$100 or \$200 shall be shared
34 equally. Any moneys received by a law enforcement agency

1 under this subsection (j) shall be used to purchase law
2 enforcement equipment that will assist in the prevention of
3 alcohol related criminal violence throughout the State. This
4 shall include, but is not limited to, in-car video cameras,
5 radar and laser speed detection devices, and alcohol breath
6 testers. Any moneys received by the Department of State
7 Police under this subsection (j) shall be deposited into the
8 State Police DUI Fund and shall be used to purchase law
9 enforcement equipment that will assist in the prevention of
10 alcohol related criminal violence throughout the State.

11 (k) The Secretary of State Police DUI Fund is created as
12 a special fund in the State treasury. All moneys received by
13 the Secretary of State Police under subsection (j) of this
14 Section shall be deposited into the Secretary of State Police
15 DUI Fund and, subject to appropriation, shall be used to
16 purchase law enforcement equipment to assist in the
17 prevention of alcohol related criminal violence throughout
18 the State.

19 (Source: P.A. 91-126, eff. 7-16-99; 91-357, eff. 7-29-99;
20 91-692, eff. 4-13-00; 91-822, eff. 6-13-00; 92-248, eff.
21 8-3-01; 92-418, eff. 8-17-01; 92-420, eff. 8-17-01; 92-429,
22 eff. 1-1-02; 92-431, eff. 1-1-02; 92-651, eff. 7-11-02.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.